

## **806 KAR 17:300. Provider agreement and risk-sharing agreement filing requirements.**

RELATES TO: KRS 304.17A-150, 304.17A-500, 304.17A-527, 304.17A-530, 304.17A-532, 304.17A-560, 304.17A-575, 304.17A-577, 304.17A-578, 304.17A-728, 304.99

STATUTORY AUTHORITY: KRS 304.2-110(1), 304.17A-527(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) authorizes the executive director to promulgate reasonable administrative regulations necessary to the effectuation of any provision of the Kentucky Insurance Code as defined in KRS 304.1-010. KRS 304.17A-527(1) requires the office to promulgate administrative regulations regarding the manner and form of required filings of sample copies of provider agreements. EO 2008-507, effective June 16, 2008, established the Department of Insurance and the Commissioner of Insurance as head of the department. This administrative regulation establishes the filing requirements of provider agreements, subcontractor agreements, and risk sharing arrangements.

Section 1. Definitions. (1) "Commissioner" means the Commissioner of Insurance.

(2) "Covered person" is defined in KRS 304.17A-500(3).

(3) "Department" means the Department of Insurance.

(4) "Enrollee" is defined in KRS 304.17A-500(5).

(5) "Insurer" is defined in KRS 304.17A-500(8).

(6) "Managed care plan" is defined in KRS 304.17A-500(9).

(7) "Nonparticipating provider" is defined in KRS 304.17A-575(4).

(8) "Participating health care provider" is defined in KRS 304.17A-500(10).

(9) "Provider agreement" means a contract between an insurer offering a managed care plan and a provider for the provision of health care services.

(10) "Risk sharing arrangement" is defined in KRS 304.17A-500(13).

(11) "Subcontract agreement" means a contract for the provision of health care services to:

(a) An enrollee, which is negotiated between a participating health care provider with a managed care plan and a nonparticipating provider with a managed care plan; or

(b) A covered person, which is negotiated between a risk sharing entity as identified in KRS 304.17A-500(13) and a provider.

Section 2. Filing Requirements. (1) A sample copy of the following shall be filed with the commissioner at least ninety (90) days before its use:

(a) Provider agreement;

(b) Risk sharing arrangement; and

(c) Subcontract agreement.

(2) A filing pursuant to subsection (1) of this section shall:

(a) Include:

1. A compensation arrangement, including a description of the:

a. Payment methodology; and

b. Payor as defined in the agreement;

2. Any attachment, exhibit, or addendum to the items listed in subsection (1) of this section;

3. A completed and signed Face Sheet and Verification Form HIPMC-F1, incorporated by reference in 806 KAR 17:005; and

4. A filing fee, including:

a. Twenty-five (25) dollars for a provider agreement or subcontract agreement filing; or

b. Fifty (50) dollars for a risk sharing arrangement filing.

(b)1. Not be considered complete until the information required by paragraph (a) of this subsection is received by the department; and

2. Be disapproved if a complete filing is not received within sixty (60) days of the date of filing.

(3) If a managed care plan amends an existing provider agreement or subcontract agreement, which was previously filed with the commissioner, affecting any requirements of this administrative regulation, the managed care plan shall submit:

- (a) An amended filing at least ninety (90) days before its use; and
- (b) A letter which identifies and explains each amendment.

(4) The failure of a managed care plan to file a sample copy of a provider agreement or subcontract agreement, as required by subsections (1) and (3) of this section, may result in imposition of a civil penalty in accordance with KRS 304.99.

(5) If an insurer amends an existing risk sharing arrangement or subcontract agreement that was previously filed with the commissioner, affecting any requirements of this administrative regulation, the insurer shall submit:

- (a) An amended filing at least ninety (90) days before its intended use; and
- (b) A letter that identifies and explains each amendment.

(6) The failure of an insurer to file a sample copy of a risk sharing arrangement or subcontract agreement, as required by subsections (1) and (5) of this section, may result in imposition of a civil penalty in accordance with KRS 304.99.

Section 3. Provider Agreement Requirements. A sample copy of a provider agreement filed with the commissioner shall:

- (1) Comply with the requirements of KRS 304.17A-527(1);
- (2) Comply with the requirements of KRS 304.17A-728; and
- (3) Not include a:
  - (a) Most-favored nation provision in accordance with KRS 304.17A -560;
  - (b) Limitation on disclosure provision in accordance with KRS 304.17A-530;
  - (c) Condition of participation provision in accordance with KRS 304.17A-150(4); and
  - (d) Mandatory use of hospitalist provision in accordance with KRS 304.17A-532(2).

Section 4. Subcontract Agreement Requirements. A sample copy of a subcontract agreement, which is part of a provider agreement or risk sharing arrangement shall:

- (1) Be filed with the commissioner by the managed care plan or insurer in conjunction with the provider agreement or risk sharing arrangement; and
- (2) Meet the requirements of Section 3 of this administrative regulation.

Section 5. Risk Sharing Arrangement Requirements. (1) A sample copy of a risk sharing arrangement filed pursuant to Section 2 of this administrative regulation shall:

- (a) Meet the requirements of Section 3 of this administrative regulation; and
- (b) Include a Risk Sharing Arrangement Information Sheet HIPMC-R1, incorporated by reference in 806 KAR 17:005.

(2) On or before September 1 of each calendar year, an insurer shall file with the commissioner the HIPMC-R1, incorporated by reference in 806 KAR 17:005, for each risk sharing arrangement currently effective. (27 Ky.R. 1706; Am. 2191; 2455; eff. 3-19-2001; 31 Ky.R. 443; 711; eff. 11-5-04; TAm eff. 8-9-2007; 35 Ky.R. 1314; eff. 2-6-09.)